

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1871 Long Term Care  
**SPONSOR(S):** Committee on the Future of Florida's Families  
**TIED BILLS:** **IDEN./SIM. BILLS:**

---

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Elder Affairs & Long Term Care (Sub)	7 Y, 0 N	Meyer	Liem
2) Future of Florida's Families	15 Y, 0 N	Meyer	Liem
3) Appropriations		Speir	Hansen
4)			
5)			

---

### SUMMARY ANALYSIS

HB 1871 provides that the provisions of chapter 435 related to background screening apply to all offenses regardless of the date on which the offense was committed. The bill revises the statutory construction in sections 400.414 and 400.419, F.S., to clarify the Agency for Health Care Administration's authority to deny, revoke, or suspend a license and its authority to fine. Under certain circumstances, it allows residents of assisted living facilities to use devices that could be considered a restraint. The bill removes obsolete financial reporting requirements for the Medicaid program.

The bill provides that the agency will notify regulated entities that licensees are due for renewal by electronic notice or by regular mail. The bill re-enacts section 400.980, F.S., related to the sunset of background screening of health care pools. The bill requires applicants for health facility licensure to provide proof of their legal right to occupy the building to the agency. Provides that a facility that is changing owners must make arrangements to repay any outstanding money owed to the agency.

The Agency for Health Care Administration reports there is an annual savings of \$151,886 by eliminating the financial reporting requirements for nursing homes that do not participate in Medicaid or Medicare.

The bill takes effect upon becoming law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1871b.ap.doc  
**DATE:** April 23, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

The Agency for Health Care Administration (AHCA) has imposed fines on assisted living facilities (ALFs) under either section 400.414 or section 400.419, F.S. The bill deletes the fining authority from section 400.414, F.S., and limits that section to denial, revocation, or suspension of a license. The bill then consolidates fining authority in section 400.419, F.S.

The bill re-enacts the screening requirements for health services pools and provides that chapter 435 related to background screening is in effect without regard to the date on which the disqualifying offense was committed. The bill provides that the agency may notify providers by electronic notice or by regular mail that licenses are due for renewal. The bill also requires licensed entities to pay or arrange for payment of amounts due to the agency before a change of ownership or licensee is granted. Applicants must provide proof of their legal right to occupy the building they seek to license before AHCA can grant a license.

Residents of assisted living facilities have requested that the statute be revised so that they may use assistive devices that manage their medical symptoms and aid them feeling safe but which may be interpreted to be a “restraint” and thus not available to them in an ALF. The bill provides that with the doctor’s agreement, the consent of the resident or resident’s decision-maker when appropriate, the resident may use restraints.

The bill removes financial reporting requirements for nursing homes that do not participate in Medicaid or Medicare; and other reporting requirements that the agency characterized as obsolete.

#### C. SECTION DIRECTORY:

Section 1 provides that the offenses cited in chapter 435 apply without regard to the date of the offense.

Section 2 subsection (12) is added to section 400.071, F.S., to require proof of an applicant’s legal right to occupy a property before AHCA issues a license

Section 3 amends 400.414, F.S., related to the agency’s authority to deny, revoke, or suspend a license.

Section 4 section 400.417, F.S., to provide for electronic or regular mail notice of license renewal.

Section 5 amends section 400.419, F.S., related to the agency's authority to impose administrative fines.

Section 6 amends section 400.441, F.S., related to rules for assisted living facilities and the use of restraints.

Section 7 subsection (1) of section 400.557, F.S., related to license renewal is amended.

Section 8 amends section 400.619, F.S. related to notification of facilities for licensure renewal.

Section 9 re-enacts subsection (4) of section 400.980, F.S., related to screening of health services pool employees.

Section 10 amends section 400.061, F.S., related to required data reports.

Section 11 amends section 408.062, F.S., to delete the agency's responsibility for evaluating data from nursing home financial reports and from documenting, monitoring and reporting annually the financial status of nursing homes to the Governor and Legislature.

Section 12 amends section 408.831, F.S., related to moneys owed to the agency at the time of an application for change of ownership, change of licensee, registrant, or certificate holder.

Section 13 makes a cross-reference correction.

Section 14 provides that the act take effect upon becoming law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The Agency for Health Care Administration estimates there is an annual reduction of \$151,886 through the elimination of three FTEs by eliminating the requirement for submission of a fiscal analysis for nursing homes.

#### **2. Expenditures:**

No new expenditures.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

There are new fiscal consequences for the private sector.

D. FISCAL COMMENTS:

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No new rule making authority is granted; nor is any rule making authority revised.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Agency for Health Care Administration and the Department of Elder Affairs do not recommend the language in this bill (section 6) that would expand the use of restraints in assisted living facilities.

Section 5 of the bill uses the word "shall" to require the Agency for Health Care Administration to impose administrative fines. They request an amendment to the word "may" in these situations so they retain prosecutorial discretion.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

HB 1871 as amended by the Future of Florida's Families Committee is the substance of this analysis. The bill differs from the PCB that was taken up in the following ways:

- Background screening for health care services pools is re-enacted
- Revises section 435 to clarify that employment disqualification applies without regard to when the offense may have occurred.
- Provides that an ALF cannot use restraints for discipline or convenience, but that a person may within certain limits use assistive devices that are approved or prescribed by the person's doctor and with the person's consent or the consent of the patient's decision-maker.